It was held that he could. The acceptors, who had been supplied with funds to meet the bankers' accruing obligations, were not bound to invoke the moratorium in order that the borrowers might secure the benefit of a possibly lower rate of exchange in the future.

No decision involving this point has been found in the rapidly increasing number of reported English cases dealing with various phases of the recent moratoria, but the result seems to be in accordance with the spirit of the act. It was an emergency measure for the benefit of debtors. They were not obliged to accept its privileges. Indeed, a moratorium proclamation subsequent to the one here in dispute expressly provided that payments before the expiration of this special period of grace were not forbidden.[2]

WIDER JURISDICTION FOR THE UNITED STATES SUPREME COURT. — A recent amendment to the Federal Judicial Code gives the Supreme Court jurisdiction to review *all* cases involving a federal right which have been carried to the state court of last resort for such questions.[1] Hitherto the right of review in such cases has been limited to decisions adverse to the federal right. This is a significant victory for legal reform, won by the American Bar Association after a single-handed fight, with practically no assistance from the press.[2] Congress was reluctant to extend the jurisdiction which had remained substantially without change since the Judiciary Act of 1789,[3] but new conditions bringing new problems have supplanted those which gave rise to the old rule, and it had become a positive obstacle to a just and uniform interpretation of the federal Constitution.

The jurisdiction conferred upon the Supreme Court by the Judiciary Act was wide enough to restrain local jealousies and to preserve the newly created central authority from encroachment by the states. No more was necessary. If a state court in that day and generation sustained a federal right, it would be practically certain to prevail in the Supreme Court also. The denial of an appeal in such cases was a wise measure to prevent fruitless litigation.

To-day the most important disputes arising under the Constitution no longer turn upon conflicts between the states and the national government, but between the states and their own citizens. The state judiciary no longer harbors a local jealousy of central authority. But many state judges, clinging tenaciously to an outworn economic creed, are likely to regard as offending the Fourteenth Amendment humanitarian legislation which the Supreme Court would sustain if the case

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[2] Proclamation of Sept. 30, 1914, s. 4. 58 Sol. J. 854.

[1] PUBLIC ACT NO. 224; 63d CONGRESS, SENATE BILL No. 94; Approved Dec. 23, 1914, amending FED. JUD. CODE of 1911, c. 10, § 237.

[2] The measure was proposed in the report of a special committee of the American Bar Association in 1911, which was adopted without change by the Association. 36 A. B. A. 462, 469, 48. It was passed by the Senate in the 62d Congress, but not by the House. 37 A. B. A. 559, 564; 38 A. B. A. 547.

[3] Sec. 25.

could be appealed.[4] Under the code as it stood prior to the recent amendment, no such appeal could be taken. This injustice was not certain to be removed even if the Supreme Court definitely affirmed the validity of a similar statute on appeal from the court of another state which happened to rule against the federal right. At least one state court expressly declared: "We are not bound by any obligation imposed upon us in the federal Constitution to uphold a state statute merely because, in the view of the Supreme Court of the United States, it is not unconstitutional." [5] Thus the rule which has been superseded made possible a situation in which one "supreme law of the land" would have, permanently, a different meaning in different parts of the land. Moreover, it was conceivable that the Supreme Court would never have a chance to pass upon legislation which all the state courts held invalid.

The new amendment gives the Supreme Court a *discretionary power* to review by *certiorari*, or otherwise, decisions which sustain the federal right. If the decision is adverse to the federal right the losing party may still demand a writ of error from the Supreme Court *as of right*. The slight difference in procedure enables the court to free its calendar from dilatory appeals under the new jurisdiction, without impairing the position which is now assured to it as the final interpreter of the Constitution.

DIRECT RECOVERY BY A CORPORATION FOR DAMAGE SUSTAINED AS STOCKHOLDER IN ANOTHER CORPORATION. — Can a shareholder, the value of whose stock had been depreciated by a wrongful reduction of the corporate assets, circumvent the long-established principle that a stockholder cannot sue for damage to his interest caused through injury to the corporation for which the latter has a right of action,[1] by showing that the wrongdoer was simultaneously violating a duty owed the shareholder in his individual capacity? This question received its first judicial consideration in a decision just handed down by the Appellate Division of the New York Supreme Court. *General Rubber Co.* v. *Benedict*, 164 N. Y. App. Div. 332, 149 N. Y. Supp. 880.[2] The plaintiff corporation was a large stockholder in another corporation, and defendant was a director of the former but not of the latter. With

[4] Many interesting examples of this have been collected by Professor W. F. Dodd in an article entitled, "The United States Supreme Court as the Final Interpreter of the Federal Constitution," 6 Ill. L. Rev. 289. *Cf.* State *v.* Williams, 189 N. Y. 131 (1907), with Muller *v.* Oregon, 208 U. S. 412 (1908); and People *v.* Orange, etc. Co., 175 N. Y. 84 (1903), with Atkin *v.* Kansas, 191 U. S. 207 (1903).

[5] See McCollum *v.* McConaughy, 141 Ia. 172, 176, 119 N. W. 539, 540.

[1] Smith *v.* Hurd, 12 Met. (Mass.) 371, is the leading case. A stockholder brought an action on the case against certain directors for negligently permitting the corporate assets to be wasted. A demurrer to the declaration was sustained.

Other cases involving the same principle are Smith *v.* Poor, 40 Me. 415; Allen *v.* Curtis, 26 Conn. 456; Converse *v.* United Shoe Machinery Co., 185 Mass. 422, 70 N. E. 444; Niles *v.* Johnson, 69 N. Y. App. Div. 144, 74 N. Y. Supp. 617, affirmed 176 N. Y. 119, 68 N. E. 142. See 1 MORAWETZ, CORPORATIONS, 2 ed., §§ 239, 566; 4 THOMPSON, CORPORATIONS, 2 ed., §§ 4550–1; 22 HARV. L. REV. 594.

[2] This case is more fully stated in this issue of the REVIEW, p. 427. The opinion was by Dowling, J., in which Scott and Hotchkiss, JJ., concurred. There was a dissenting opinion by Ingraham, P. J., in which Laughlin, J., concurred.